

FRUIN & KASH

ATTORNEYS AT LAW

RICHARD M. KASH, JR.

129 North Central Avenue

Paris, IL 61944-1704

Telephone: (217)465-4196

Fax: (217)466-1213

E-Mail: info@fgklaw.net

ROGER FRUIN (1915-2002)

CARL A. LUND (1935-2010)

May 21, 2019

Office of Attorney General
Public Access Bureau
100 West Randolph
Chicago, IL 60601
Attn: Shannon Barnaby

RECEIVED
MAY 29 2019
Public Access
Counselor

Re: Clark-Edgar Water District
2019 PAC 57971

Dear Ms. Barnaby:

I am responding on behalf of Clark-Edgar Water District to your enclosed letter:

I have included a copy of the agenda. As you can see it reflects that the salary of the General Manager is subject to review and action. In fact, as shown in the attached minutes the Board recessed into executive session and upon return adopted an increase in the Salary of the General Manager.

The Open Meeting Act requires that the agenda shall set forth the general subject matter of any topic that is subject to final action at that meeting. Here, the agenda advised that the General Manager's Salary would be reevaluated and action would be taken upon said reevaluation. Upon return there was public recital of the nature of the matter to be considered. That should be sufficient to comply with the requirements.

The second allegation is that the Board discussed items not on the agenda. It appears the complaint is about discussing funding on grant options to hook up unsecured customers.

The agenda clearly states that the Board would discuss matters involving the Village of Vermilion and Bulk Water Rates. The enclosed minutes reflect that there was discussion about grants and funding options but that was in regard to possible funding for the sale of water to the Village of Vermilion. The minutes further clarify that the discussion centered on possible service to the Village of Vermilion, how that service would be offered and possible rates if service was provided. All the discussion involved the topic listed on the Agenda.

Page 2
May 21, 2019

Further, there was no final action taken at the meeting in regards to this matter. Thus, even if the discussions were beyond the scope of the agenda items, a position that the Clark Edgar Water District does not concede, there is no violation of the Open Meetings Act's requirement.

If you need any further information please do not hesitate to contact me or the Water District.

Sincerely yours,

FRUIN & KASH

A handwritten signature in dark ink, appearing to read "Richard M. Kash, Jr.", written in a cursive style.

Richard M. Kash, Jr.

RMK:dh
Cc: Clark-Edgar Water District

Clark-Edgar Rural Water District

475 IL Highway 1, PO Box 297, Marshall, IL 62441

Special Meeting Agenda

May 1, 2019

Following Re-organizational Meeting at 6:00 P.M.

Special Meeting

- I. Call to order
- II. Roll Call
- III. Public Comment
- IV. Old Business Consider and Act Upon:
- V. New business Consider and Act Upon:
 - a) Executive Session to Discuss Appointment, Employment, Compensation, Discipline, Performance or Dismissal of a Specific Employee or Legal Counsel for the Public Body
 - b) Re-evaluation of General Manger Salary
 - c) Discussion and Approval of Village of Vermillion and Bulk Water Rate
- VI. Adjourn

Clark-Edgar Rural Water District
Minutes for Special Meeting on May 1, 2019
Next Regular Meeting May 20, 2019

Darcy Keys called the meeting to order at 6:10 p.m. Darcy Keys performed roll call. Board members present were Phil Adams, Brad Adams, Seth Thompson and Roy Sweet. Board members Lisa Thomas and Sandra Neal were not present. Also attending were Lee Malone, Peggy Tingley, Ashley Cox, Rich Kash and John Kraft.

John Kraft addressed the board concerning the explanation that he understood about the cost to deliver water, and that he and other customers were charged this cost. He asked the board to consider the same cost to deliver water to the Village of Vermillion because if one is charged all should be.

At 6:13 p.m., Roy Sweet moved to enter into executive session to discuss appointment, employment, compensation, discipline, performance or dismissal of a specific employee or legal counsel for the public body, Brad Adams 2nd, all in favor, motion carried. Darcy Keys performed roll call Phil Adams, Brad Adams, Seth Thompson and Roy Sweet.

The board discussed the appointment, employment, compensation, discipline, performance or dismissal of specific employees or legal counsel for the public body.

At 6:26 p.m., Brad Adams moved to reconvene the open meeting, Seth Thompson 2nd, all in favor, motion carried. Darcy Keys performed roll call Phil Adams, Brad Adams, Seth Thompson and Roy Sweet.

Phil Adams moved to give Lee Malone, General Manager, a 2% cost of living increase, Brad Adams 2nd, all in favor, motion carried.

Darcy Keys explained that there were funding options available, grants and Illinois EPA loans. Fredi Beth discussed with her (Darcy) previously at a sit down the options and there is a lot more involved in the grant and they will be harder to get. The Illinois EPA loan would be a better option for a project like Vermillion. Darcy discussed that this hasn't been mentioned before but an option would be to take over the Village of Vermillion's system. Previously talked about an emergency hook-up or selling bulk water but never mentioned taking over the system. Vermillion would qualify for the EPA loan and if the district is open to taking over the system this would be an option. This would give Vermillion another option for water service and the district can approach Vermillion's board with this option. Roy Sweet was concerned about the infrastructure in Vermillion especially the railroad that went through the town and if we took over their system how that would affect us because the infrastructure is failing. It was mentioned that it is possible to bore a railroad but it is costly, there would already be a bore for Vermillion's current line but there is no way to know if that is up to code for today. Brad Adams stated that it first needs to be decided getting water to them then taking over system. Seth Thompson agreed that it could be 5 to 10 years down the line before Vermillion makes up their mind to do something. It was discussed why Vermillion would not be trying to get a grant themselves to update their infrastructure themselves. Lee Malone stated that he had a lot of questions to ask the Mayor at their meeting. Darcy Keys stated she just wanted to talk it over with the board before she and Lee approach Vermillion's board and mayor at their meeting on the 13th, then we will put this back on the agenda to discuss and bring everyone up to speed.

Lee Malone stated that Vermillion wants to know what we would sell bulk water to them at. Darcy Keys stated that the new bulk rate for Village of Westfield, being it correct or not correct, is \$4.07 per thousand with the rate increase. Darcy asked to determine how much to sell bulk water, do we say bulk water is bulk water and charge everyone the same, or do we charge it based on the number of users there are. Roy mentioned the delivery fee that all other customers pay, but Westfield is charged \$4.07 per thousand and doesn't see how we can justify that. Darcy asked Rich Kash if the district is locked into the rate with Westfield subject to our rate increases with the contract with them. Rich stated that he does not have the contract in hand but the contract that we currently have with City of Paris it is a 40 year contract and was an EPA requirement. Darcy stated that our rate we purchase off City of Paris is 3 dollars and roughly some cents. Roy Sweet stated that still doesn't cover the other 3,200 customers that are paying a carrying charge but the other people getting it for the better price. Seth Thompson

agreed that it is a better incentive to do bulk water especially if we then present to them we can take over your system but you will be paying \$45 or \$46 a month. Darcy stated she is ok with waiting for the rate study to present a better price for bulk water but there is a possibility of losing out to the City of Paris to serve Vermillion. With Vermillion paying for the extension to serve them the bulk water, it will not cost us extra to serve them the water but she stated we need to have that agreed upon price to present them. Seth Thompson stated there has been a lot of back and forth on the options and no one has made up their mind on whether serve them bulk water or a complete take over. Darcy stated that she believes Bob Colvin wants to present Vermillion with all their options but can't present anything without our number until we decide on a price on the bulk rate or taking over the system. The board needs to come to a real decision on the bulk rate. Brad Adams asked if there was a number on the gallons that Vermillion would use per month. Darcy explained that is one of the questions they will discuss at their board meeting. Darcy asked if it was a thought to estimate what they are going to use per month and base it off our rate schedule tiers. Lee stated he would talk with their operator Andy Bess and find out how much water Vermillion uses per month. Roy Sweet stated that it is odd that we are not being approached by Vermillion but instead we have to approach them to discuss serving them water. Darcy stated that they are using Francis Associates to do all the discussions. Darcy asked how we were approached by the Village of Westfield and Ashley Cox stated that Westfield approached the district and came to our board meeting. Lee Malone stated we should request that Vermillion come to our board meeting to discuss the options and prices. Phil Adams suggested charging \$6.25 per thousand if we are just putting a meter in for them to hook onto when they need to. Brad Adams agreed that if the district is running a line to them and they are paying for it, but are only going to use the water when they need it then the price has to be higher. If they would commit to using our water then we could negotiate. The rates for Westfield were discussed and determined that they are on the same rate increase as the rest of the customers and were subjected to the 2% rate increase also. There was some discussion on having a rate study done for better options to charge bulk water prices. After looking at the contract, Darcy Keys stated the Westfield contract is in effect for 40 years. Rich Kash explained USDA requires a 40 year contract for projects they fund. Darcy stated that the Illinois EPA loan is similar but it has loan forgiveness. Seth mentioned the delivery charge and Darcy stated that the delivery charge would be included in the rate schedule tiers. It was discussed on charging Vermillion like a normal customer and charging them like Christensen Farms is charged like a regular user. It was mentioned that maybe the district should get away from the term bulk water. Lee mentioned if Vermillion hooks on and starts using a lot of water we will have a problem with pressure dropping and we may need to feed water 2 ways. Darcy stated we need to know how much it will cost to do both lines. Roy mentioned to Lee that at a previous meeting Lee said he was going to check the aquifer to see if it could support serving Vermillion.

After much discussion on the Village of Vermillion and bulk water rates, it was decided to approach Village of Vermillion at their next board meeting with our current rate schedule and inquire about their intentions for water involving the District.

Seth Thompson moved to adjourn the meeting at 7:31 p.m., Phil Adams 2nd, all in favor, motion carried.

Submitted by: Ashley Cox